

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Case No. CR-17-239-D
	)	
JERRY DRAKE VARNELL,	)	
	)	
Defendant.	)	

\* \* \* \* \*

TRANSCRIPT OF EXCERPT

OF PROCEEDINGS

HAD ON FEBRUARY 20, 2019

BEFORE THE HONORABLE TIMOTHY D. DeGIUSTI

U.S. DISTRICT JUDGE, PRESIDING

AND A JURY

\* \* \* \* \*

TESTIMONY OF BARRY BLACK

Proceedings recorded by mechanical stenography; transcript  
produced by computer-aided transcription.

CHRISTINA L. CLARK, RPR, CRR  
United States Court Reporter  
200 N.W. Fourth Street, Suite 5419  
Oklahoma City, Oklahoma 73102  
christina\_clark@okwd.uscourts.gov - ph(405)609-5123

A P P E A R A N C E S

ON BEHALF OF THE GOVERNMENT:

Mr. Matt Dillon  
Mr. Mark R. Stoneman  
Assistant United States Attorneys  
U.S. Attorney's Office  
210 West Park Avenue  
Suite 400  
Oklahoma City, Oklahoma 73102

ON BEHALF OF THE DEFENDANT:

Ms. Marna S. Franklin  
Franklin Law Firm  
620 N. Robinson Ave.  
Suite 203  
Oklahoma City, Oklahoma 73102

Ms. Vicki Z. Behenna  
MULINIX GOERKE & MEYER  
210 Park Avenue  
3030 Oklahoma Tower  
Oklahoma City, Oklahoma 73102

Ms. Laura K. Deskin  
Attorney at Law  
400 North Walker  
Suite 230  
Oklahoma City, Oklahoma 73102

CHRISTINA L. CLARK, RPR, CRR  
United States Court Reporter  
200 N.W. Fourth Street, Suite 5419  
Oklahoma City, Oklahoma 73102  
christina\_clark@okwd.uscourts.gov - ph(405)609-5123

**I N D E X**

**PAGE**

EVIDENCE ON BEHALF OF THE GOVERNMENT:

BARRY BLACK

Direct Examination by Mr. Stoneman . . . . .	04
Cross-Examination by Ms. Behenna . . . . .	.39
Redirect Examination by Mr. Stoneman . . . . .	.60
Recross-Examination by Ms. Behenna . . . . .	.67

CERTIFICATE OF REPORTER . . . . .	.70
-----------------------------------	-----

**P R O C E E D I N G S**

(The following is an excerpt of the proceedings had on February 20, 2019, containing the testimony of Barry Black:)

THE COURT: Good morning, ladies and gentlemen of the jury. Welcome back.

Government, are you ready to call your next witness?

MR. STONEMAN: We are, your Honor.

THE COURT: Please proceed.

MR. STONEMAN: Government calls Barry Black.

THE COURT: Sir, please come forward, stand in front of the witness chair and be sworn.

(The witness was duly sworn.)

THE CLERK: Please be seated.

**BARRY BLACK,**

called as a witness herein, having been first duly sworn, was examined and testified as follows:

**DIRECT EXAMINATION**

BY MR. STONEMAN

Q Good morning. Please introduce yourself to the jury.

A Good morning. My name is Barry Black.

Q And what do you do for a living?

A I'm a special agent with the FBI.

Q And what do your current duties involve?

A I'm a bomb technician assigned to the Joint Terrorism Task Force.

*DIRECT EXAMINATION OF BARRY BLACK*

1 Q Okay. Did you have to have any specialized training to  
2 become a bomb technician?

3 A Yes.

4 Q Can you describe for the jury some of the details of your  
5 training?

6 A Became a bomb technician in 1994 at the FBI's Hazardous  
7 Devices School. It's the only school in the nation that  
8 certifies nonmilitary bomb technicians. I've remained  
9 certified since 1994.

10 Continued my training as a Weapons of Mass Destruction  
11 Emergency Responder/Hazardous Materials Technician. Training  
12 at the Army's Aberdeen Proving Ground, the Navy's Advanced  
13 Access and Disablement Center at Indian Head, the Armed Forces  
14 Experimental Training Facility at Harvey Point Defense  
15 Training Facility, the British counter IED school outside  
16 London at the Felix Centre.

17 I am a certified bomb technician and master bomb  
18 technician, master police instructor, adjunct faculty member  
19 at the FBI Academy, where I teach a variety of counter IED  
20 schools, to include large vehicle bomb post blast schools,  
21 where we construct and detonate large vehicle-borne IEDs.  
22 Witness their effects and teach post blast evidence  
23 collection.

24 I've been deployed to 23 countries and six continents.  
25 I've been a subject matter expert for the state department

CHRISTINA L. CLARK, RPR, CRR  
United States Court Reporter  
200 N.W. Fourth Street, Suite 5419  
Oklahoma City, Oklahoma 73102  
christina\_clark@okwd.uscourts.gov - ph(405)609-5123

*DIRECT EXAMINATION OF BARRY BLACK*

1 drafting counter IED plans for foreign nations. I've been a  
2 lecturer at international counter IED symposium in the former  
3 Soviet Union, the FBI academy, FBI headquarters, New Scotland  
4 Yard, various universities, military and police academies  
5 around the world.

6 I'm currently writing a research paper on alternate fuels  
7 used in improvised explosives and was awarded the U.S. patent  
8 for a counter IED tool as a co-inventor, which we gave to the  
9 government and is being used throughout the country now.

10 Q Very good.

11 Can you tell us, briefly, what was your initial role in  
12 this investigation?

13 A Part of my job is to provide advice and input as agents  
14 gather information during the course of their investigations.  
15 So in early 2017, a couple of the task force officers came to  
16 me and asked if it was feasible and viable for an individual  
17 to construct a large vehicle-borne IED -- a Timothy  
18 McVeigh-type device, so a thousand pounds of ANFO -- using a  
19 cellular phone as part of the firing system.

20 Q And what did you advise the case agents at that time?

21 A That is feasible and viable and relatively easy to do.

22 Q Okay. And as this investigation progressed, tell us a  
23 little bit more about what your role became.

24 A I was engaged in other matters, so several weeks went by,  
25 several months went by. The case agents came back to me with

*DIRECT EXAMINATION OF BARRY BLACK*

1 more information that was a little troubling to me.

2 Q And what was that information?

3 A The subject of the investigation had a background in  
4 electronics, was capable of assisting in the manufacturer of  
5 that cellular phone firing device, had mentioned various  
6 chemical-type synthesis exercises, had been experimenting with  
7 homemade explosives, was knowledgeable about the nitrogen  
8 content of oxidizers.

9 Those are the types of things that, if you're wanting to  
10 build a device like that, you would need to know about.

11 Q Can you tell us, as the investigation further progressed,  
12 what did your role become?

13 A Having a device of that size in the public domain  
14 incorporating any kind of homemade explosives is a hazard both  
15 to the public as well as to us as, you know, render-safe bomb  
16 squad. So we tried to shift away from any kind of improvised  
17 component to commercial inert components.

18 Q In other words, did you advise the case agents to allow  
19 the defendant to provide any of the explosive materials  
20 himself or something else?

21 A No. As I said, losing control of this kind of situation  
22 can be hazardous, so I felt it was important that we know that  
23 the components of any device that would be built would be  
24 completely safe and inert.

25 MR. STONEMAN: Could you pull up Government's

*DIRECT EXAMINATION OF BARRY BLACK*

1 Exhibit No. 5, which has been previously admitted.

2 Q (By Mr. Stoneman) Agent Black, we've pulled up  
3 Government's Exhibit No. 5, which has been previously  
4 admitted.

5 Do you recognize what's depicted in that photograph?

6 A Yes.

7 Q Can you tell us, how is it that you recognize that?

8 A Those are the materials that I acquired and supplied for  
9 this case.

10 Q Okay. So you acquired these and supplied them to the  
11 case agents; is that correct?

12 A Yes.

13 Q Can you go ahead in your -- the government's exhibit  
14 book, which should be in front of you, can you take a look at  
15 Government's Exhibits 5 through 16, which have all been  
16 previously admitted, and tell me if you recognize those?

17 A Five through 16?

18 Q Yes, sir.

19 A (Witness complied.)

20 Yes.

21 Q Okay. And are those various items depicted in  
22 Government's Exhibit No. 5?

23 A Yes.

24 Q Okay. I would like to walk through those individually  
25 with you, just have you describe for the jury what they are,



*DIRECT EXAMINATION OF BARRY BLACK*

1 what their function was, how a person might acquire them  
2 before we move on to another topic.

3 MR. STONEMAN: So if you could pull up Government's  
4 Exhibit No. 15. We're going to work our way back.

5 Q (By Mr. Stoneman) Tell us what we're looking at here.

6 A That is the firing system, which is commonly known as a  
7 Time and Power Unit, abbreviated as a TPU.

8 Q And what's the purpose of a TPU in this context?

9 A The Time and Power Unit serves, basically, as the brains  
10 of a device like this that can be configured in a number of  
11 different ways. This one included a cellular phone, which was  
12 described initially as what the subject of the investigation  
13 wanted to use.

14 Q And you describe it as the brains. What sort of  
15 electrical function does it really need to do?

16 A So a device like this can be initiated electronically or  
17 it can be initiated with something like a burning time fuse.  
18 In this case, this provides an electrical signal to electric  
19 blasting caps which start what is called the explosive train.

20 Q And you say an "electrical signal." Does that have to be  
21 a certain data signal or just a flow of electricity?

22 A No. So in this case the phone is just a switch. It's an  
23 electrical switch. So the phone receives a signal from any  
24 other cell phone.

25 In this case, that electrical current that would usually

*DIRECT EXAMINATION OF BARRY BLACK*

1 flow to the speaker or the vibratory motor just serves as a  
2 switch to provide electrical power through the circuit into  
3 the detonator.

4 Q So to be clear, this is -- well, you described it as the  
5 brains, but this device does not require a particular data  
6 signal, just an electrical signal --

7 A Correct.

8 Q -- to power; is that correct?

9 A Yes.

10 Q Can you tell us what we're -- what this part is right  
11 here (indicated)?

12 A So that is a stereo jack plug, like used to be in the old  
13 stereos. That serves as another type of switch. One of the  
14 inherent problems with using a cellular phone as part of a  
15 firing circuit is you may get a robocall or something like  
16 that, that could accidentally detonate the device before you  
17 are wanting it to detonate.

18 So that's simply another switch called the safe arming  
19 switch. That jack plug would have to be inserted into the  
20 circuit so that the next time the phone was called the device  
21 would detonate.

22 MR. STONEMAN: Can you move back to Government's  
23 Exhibit No. 14?

24 Q (By Mr. Stoneman) So this -- what did you call it, a jack  
25 plug switch?

*DIRECT EXAMINATION OF BARRY BLACK*

1 A It's a stereo jack plug, yes. You can see it there.

2 Q Is this what we're talking about right here (indicated)?

3 A Yes.

4 Q Okay. And, again, does that provide any sort of data  
5 signal to the device or merely close the circuit?

6 A No. It simply closes the circuit that allows the  
7 electrical energy to flow from the phone through the rest of  
8 the circuit.

9 Q And can you tell us, how complex is this Time Power Unit?

10 A It's not complex. The instructions were using a cell  
11 phone in an IED or on the internet, for example.

12 Q Okay. And really inside that box is just an electrical  
13 circuit with a battery?

14 A Yes. So in this particular device the cell phone  
15 provides a signal through the circuit and allows a larger  
16 battery to fire the detonators.

17 Q Okay.

18 MR. STONEMAN: Can you go back to 15 real quick  
19 again?

20 Q (By Mr. Stoneman) Can you tell us what I've circled  
21 there? What are those?

22 A So those are simply stereo speaker connectors. They  
23 serve to provide the current from the power source down the  
24 line to wires that are connected to those stereo speaker  
25 connectors.

*DIRECT EXAMINATION OF BARRY BLACK*

1 Q And one's red, one's black. Does it matter which one is  
2 connected to the wires?

3 A No.

4 Q Okay. Is it fair to say anybody with some basic  
5 electrical wiring or electrical knowledge could have  
6 constructed this device?

7 A Yes.

8 Q Take a look at Exhibit No. 12, please, and tell us what  
9 we're looking at here.

10 A Those are two commercial detonators. They are also  
11 called blasting caps or initiators.

12 Q And what purpose or what function do these serve with  
13 this particular type of device?

14 A There's a -- it's called the explosive train or the  
15 explosive chain. So this would be the first step in that  
16 explosive series. The orange and yellow wires you see there  
17 would conduct the electricity from the Time and Power Unit,  
18 down the copper wiring, into the detonators, which would cause  
19 them to explode.

20 Q And those orange and yellow wires, would those have been  
21 connected to the red and black caps on the Time Power Unit?

22 A Yes.

23 Q So are they just receiving, again, just an electrical  
24 current?

25 A Right. It's just a solid cord with just a copper wire.

*DIRECT EXAMINATION OF BARRY BLACK*

1 Q Okay. So the Time Power Unit sends electrical current  
2 through those cords. And can you tell us -- let me do it  
3 right here. This silver cylindrical device --

4 MR. STONEMAN: And if you can zoom into that.

5 Q (By Mr. Stoneman) -- can you further describe what we're  
6 looking at there?

7 A That's the blasting cap, also called the initiator or  
8 detonator. It's generally an aluminum cylinder. The green  
9 part you see on the end is called the plug. The orange and  
10 yellow leg wires, as they are called, go into the base of the  
11 detonator where there is a small bridge wire, much like the  
12 filament in a light bulb.

13 So when the electrical current is carried by the leg  
14 wires, it heats the bridge wire or filament, which is in the  
15 base of the detonator. And that's embedded in some very  
16 sensitive explosives. That small amount of current enables  
17 those primary explosives to detonate.

18 And then as you get towards the bottom in this image,  
19 there is what's called a base charge of another high  
20 explosive, which has enough force to cause other explosives to  
21 detonate.

22 Q So, theoretically, in this explosive chain, this would be  
23 the first component that would actually explode; is that  
24 correct?

25 A Yes.

*DIRECT EXAMINATION OF BARRY BLACK*

1 Q And can you tell us, how can a law-abiding person acquire  
2 one of these?

3 A These are commercial detonators. They can be acquired  
4 lawfully with a permit or a license. We have many cases where  
5 detonators are actually improvised or acquired through  
6 criminal means, either stolen or acquired from people who have  
7 stolen them.

8 Q So a non-law-abiding person could either steal these or  
9 make them themselves?

10 A Right. You could make detonators. They wouldn't look  
11 exactly like this, but they serve the same function. Or they  
12 could be stolen or acquired.

13 Q What kind of -- what kind of materials would a person  
14 need to make an improvised detonator?

15 A Commonly, currently materials -- high explosive known as  
16 triacetone triperoxide is often used. It's household  
17 chemicals you can find in pool supply stores, hair supply  
18 stores, you know, Walmart, Ace Hardware.

19 Q Okay. And, to be clear, these particular -- we've called  
20 them alternately detonators. Are they also called blasting  
21 caps?

22 A Yes.

23 Q These particular detonators or blasting caps were inert.  
24 And what does "inert" mean to you?

25 A "Inert" means they will not function. They look real,

*DIRECT EXAMINATION OF BARRY BLACK*

1 feel real, weigh correctly, but they just will not explode.

2 Q Okay. And, again, what's the reason for providing inert  
3 blasting caps in this investigation?

4 A Any explosive we wouldn't want out in the public domain  
5 for public safety.

6 Q Take a look at Exhibit No. 9. And what are we looking at  
7 here?

8 A Each one of those is called a detonating cord. The  
9 colors don't matter. They are just different types of  
10 detonating cord. Detonating cord is a high explosive itself.  
11 It's a high-explosive core wrapped in a nylon sheath. You can  
12 think of it as rope that connects different charges, except in  
13 this case the rope explodes.

14 Q Okay. And in this particular device, how -- what do they  
15 connect to on either end?

16 A So in the explosive train or explosive chain, the  
17 detonators would be connected to one end of the detonating  
18 cord and the other end of the detonating cord would be another  
19 explosive.

20 Q And how would a law-abiding person acquire detonation  
21 cord, or det cord?

22 A Again, it's -- a law-abiding, you can acquire it as a  
23 blaster in the explosive industry with a permit or a license.

24 Q Otherwise, a person would have to steal these; is that  
25 correct?

*DIRECT EXAMINATION OF BARRY BLACK*

1 A Yes.

2 Q Okay. Is it feasible for a lay person to construct or  
3 make homemade det cord?

4 A It would be a laborious process. The det cord for  
5 multiple charges isn't necessary. It's just a way to link the  
6 charges together. But you don't have to have it. You can  
7 just simply use other detonators.

8 Q So, in other words, you can't -- it's very difficult to  
9 make this yourself, but for the purpose of this device, this  
10 is not even really necessary; is that correct?

11 A Correct.

12 Q And, to be clear, this detonation cord, or det cord, that  
13 you provided was inert; in other words, it would not have  
14 exploded?

15 A That's correct.

16 Q Take a look at Exhibit No. 7, please. And tell us, what  
17 are we looking at here?

18 A Each of those is a different type of high explosive.

19 Q And what purpose do they serve for this particular type  
20 of device?

21 A They would serve as what's known as a booster. A booster  
22 can be really any type of explosive, not one particular type.

23 So depicted here are two cartridges of dynamite, four red  
24 cast boosters. It's just a high explosive that's been cast in  
25 the shape of a cylinder.



*DIRECT EXAMINATION OF BARRY BLACK*

1 And then the four yellow or orange items at the bottom  
2 are also cast boosters, just a smaller size.

3 Q And to be clear here, what have I circled here at the  
4 very top?

5 A Those represent two cartridges of dynamite.

6 Q And tell us again, in this type of device how would these  
7 be -- what would they be connected to?

8 A So using the detonating cord we saw previously, the  
9 detonators would be attached to the detonating cord. The  
10 detonating cord would then be attached to these high-explosive  
11 charges which would be used as a booster for the main charge.

12 Q Okay. The main charge in this case being what?

13 A ANFO.

14 Q Okay. And we'll get to that in a minute.

15 How would a law-abiding person acquire dynamite or these  
16 other types of explosive boosters?

17 A Again, generally, with a permit or license.

18 Q A non-law-abiding person, how could they acquire this or  
19 something functionally equivalent to this?

20 A These types of materials are stolen, but a booster can  
21 also be made out of homemade explosives.

22 Q Okay. What type of materials would a person need to make  
23 boosters sufficient to function as boosters in this type of  
24 device?

25 A Again, relatively common materials that you can find at

*DIRECT EXAMINATION OF BARRY BLACK*

1 pool supply stores, hair supply stores.

2 Q And, to be clear, these boosters that you provided are  
3 inert?

4 A That's correct.

5 Q Please take a look at Government's Exhibit No. 5, and  
6 tell us -- tell us about this brown bag that I'm circling  
7 here.

8 A That's a bag that commercial ANFO is usually found in.  
9 ANFO is an acronym, A-N-F-O. It's a type of commercial  
10 explosive. It stands for ammonium nitrate fuel oil. There  
11 are many different kinds manufactured in many different  
12 places. This particular brand is called Austinite 15.

13 Q And the jury has heard the term "ANFO" quite a bit in the  
14 past few days. I see under Austinite 15 the phrase "ammonium  
15 nitrate fuel oil." Is that where we get the term "ANFO" from?

16 A Yes.

17 Q It's an acronym?

18 A It's just an acronym for ammonium nitrate fuel oil.

19 Q And you mentioned, as we were discussing the previous  
20 exhibit, this is the primary explosive for this type of  
21 device?

22 A It's referred to as the main charge. Whatever the end of  
23 the firing train would be that -- the last explosive would be  
24 considered the main charge.

25 Q Okay. And tell us a little bit more about how a

*DIRECT EXAMINATION OF BARRY BLACK*

1 law-abiding person would acquire ANFO, ammonium nitrate fuel  
2 oil.

3 A Commercially, it's a tool that's used in the mining and  
4 quarry industry. It's designed to push and heave rock, for  
5 instance. So it's available commercially with a permit or  
6 license.

7 Q And how might a non-law-abiding person who wanted to get  
8 their hands on some ammonium nitrate fuel oil, or ANFO,  
9 acquire ANFO?

10 A Without a permit or license, it can be stolen or can be  
11 homemade, improvised.

12 Q And tell us a little bit about the process of making ANFO  
13 homemade.

14 A It's very simple. AN, the ammonium nitrate, is  
15 fertilizer. And to make an explosive, you need an oxidizer  
16 and a fuel. The ammonium nitrate serves as the oxidizer.  
17 Then you simply add a fuel to it.

18 And it can be a number of different types of fuel. It  
19 could be diesel fuel, gasoline, motor oil, camp fuel. But  
20 it's just a mixture of the fuel and the oxidation.

21 Q So ANFO -- premixed ANFO is -- you generally have to have  
22 a license to purchase it.

23 Ammonium nitrate without the fuel, can a law-abiding  
24 person purchase that without a license?

25 A Yes.

*DIRECT EXAMINATION OF BARRY BLACK*

1 Q And that's -- I think you said it's basically fertilizer?  
2 Is that right?

3 A Yes.

4 Q Is that why these types of devices are commonly called  
5 fertilizer bombs?

6 A Yes.

7 Q Is there a significant difference in the quality of the  
8 ammonium nitrate a person might get if they purchased  
9 fertilizer versus the type of ammonium nitrate in commercial  
10 ANFO?

11 A The commercial-grade explosives use what's called a  
12 commercial grade ammonium nitrate. It's still ammonium  
13 nitrate, but it's milled in such a way where it has a larger  
14 surface area. It's more porous to more readily accept the  
15 fuel.

16 An improvised ANFO, more generally, you will find  
17 fertilizer grade just more readily available. Same type of  
18 material. It just absorbs the fuel in a different way.

19 Q Okay. But if one were to just acquire fertilizer or  
20 ammonium nitrate, add an appropriate amount of diesel to that,  
21 would it essentially function the same way as commercial grade  
22 ANFO?

23 A Yes.

24 Q Are there -- let's say a person did not want to buy  
25 ammonium nitrate to mix up their own ANFO.

*DIRECT EXAMINATION OF BARRY BLACK*

1 Are there other ways to make ammonium nitrate rather than  
2 just buying it?

3 A You can make ammonium nitrate through a chemical process  
4 known as nitration. It involves the addition of nitric acid.  
5 It's a chemical process. In this country, ammonium nitrate is  
6 readily available so it's just easier to buy it, but it can be  
7 made.

8 Q And that nitration process, what base chemical would you  
9 have to nitrate?

10 A Anhydrous ammonia.

11 Q So if you had anhydrous ammonia and you had maybe a  
12 distillery, you might be able to make ammonium nitrate?

13 MS. BEHENNA: Your Honor, I'm going to object to  
14 leading. I've been letting this go for --

15 MR. STONEMAN: I'll withdraw the question.

16 THE COURT: Yeah. And relevance. Sustained.

17 Q (By Mr. Stoneman) Okay. And, to be clear, this ammonium  
18 nitrate that you provided is inert; is that correct?

19 A Correct.

20 Q Take a look at Government's Exhibit No. 16, and tell us  
21 what we're looking at here.

22 A Those are the instructions for how to operate the TPU.

23 Q And is that your handwriting?

24 A Yes.

25 Q Okay. And the -- you include a phone number at the very

*DIRECT EXAMINATION OF BARRY BLACK*

1 bottom. Was that the actual number for the phone on the Time  
2 Power Unit?

3 A So the phone on the Time and Power Unit that would have  
4 sent the signal to the detonators. I had the identical phone  
5 with me so if anyone were to call that number at the bottom,  
6 it actually rang to a phone that was with me.

7 Q Okay. I would like to talk about your role in this  
8 investigation on or about August 12, 2017, the day of the  
9 offense charged in this case.

10 Can you take a look at -- these have not been introduced  
11 into evidence yet, but take a look at Government's Exhibits 17  
12 through 30 and tell me if you recognize those.

13 A Yes, I do.

14 Q And can you describe what those pictures depict?

15 A The early morning hours of the 12th of August, I was  
16 asked to go to the BancFirst building and inspect a van that I  
17 found located there.

18 Q And do those photographs depict that van and the insides  
19 of it?

20 A Yes.

21 Q Do they appear to accurately depict what's in the  
22 photographs?

23 A Yes.

24 MR. STONEMAN: Your Honor, I'd move to admit  
25 Government's Exhibits 17 through 30.

*DIRECT EXAMINATION OF BARRY BLACK*

1 THE COURT: Any objection?

2 MS. BEHENNA: No, your Honor.

3 THE COURT: They're admitted.

4 MR. STONEMAN: Can you pull up Government's  
5 Exhibit 17.

6 Q (By Mr. Stoneman) Tell us what we're looking at.

7 A That is looking west in the alley that's to the north of  
8 the BancFirst building and perpendicular to the alley. To the  
9 south is an enclosed loading dock just beneath BancFirst. And  
10 the van was located in the loading dock.

11 Q And I have circled something on the exhibit. Is that the  
12 van?

13 A Yes.

14 Q Take a look at Government's Exhibit No. 18. What are we  
15 looking at here?

16 A That's a picture of the van in the alley with the doors  
17 open.

18 Q Okay. And we see some brown objects kind of on the  
19 floorboard.

20 MR. STONEMAN: Can you zoom into that?

21 Q (By Mr. Stoneman) Can you tell us what those are?

22 A Those are the empty Austinite 15 bags which I had  
23 previously provided.

24 Q Take a look at Exhibit No. 19. And do those appear to be  
25 the same bags depicted in Government's Exhibit 18?

*DIRECT EXAMINATION OF BARRY BLACK*

1 A Yes.

2 Q Take a look at Government's Exhibit 20, and tell us what  
3 we're looking at here.

4 A Right in the back of the van were seven plastic  
5 containers, four of these -- I guess maybe 2-by-2-foot --  
6 plastic totes were in a line behind the driver's seat. And  
7 that's an image of those totes.

8 Q Okay. And we see in this blue tote, or blue tub,  
9 something in the middle kind of peeking out. Can you tell us  
10 what that is?

11 A That's a cast booster, and the green part is the  
12 detonating cord.

13 Q Okay. Government's Exhibit 21, tell us what we're  
14 looking at here.

15 A Again, that's another image of the square containers that  
16 were right behind the driver's seat. You see three of them  
17 there.

18 Q Okay. And the orange cord kind of going into the -- into  
19 the white substance, can you tell us what that is?

20 A That's the inert detonating cord.

21 Q Okay. And did you -- during your processing of this  
22 evidence, did you pull that out to see what was attached to  
23 the det cord?

24 A Yes.

25 Q And what was it?



*DIRECT EXAMINATION OF BARRY BLACK*

1 A One of the boosters.

2 Q Twenty-two. And this -- your responses be the same to  
3 this exhibit as the last -- previous two?

4 A Yes.

5 Q All right. Government's 23, does this appear to be  
6 another of the tubs?

7 A Yes.

8 Q Government's 24, would this be another one of the tubs?

9 A Yes. There were three trashcans right behind the  
10 passenger's seat, and that's one of them.

11 Q Okay. And Government's 25 and 26, are those the other  
12 two trash tubs?

13 A Yes.

14 Q Please take a look at Government's 27. What are we  
15 looking at here?

16 A On the passenger seat, when I opened the van in the  
17 alley, was that black object. It was a cloth or shirt  
18 covering the TPU.

19 Q Okay. Go to 28, please.

20 A That's a picture of the shirt once I removed it with the  
21 Time and Power Unit visible, and you can see the leg wires  
22 trailing off behind it.

23 Q Okay. And Government's 29?

24 A Another image of the TPU.

25 Q Okay. And Government's 30?

*DIRECT EXAMINATION OF BARRY BLACK*

1 A That's an image of the detonating cord leading to the  
2 rear of the van with the detonators taped to seven links of  
3 the cord.

4 Q Okay. Based on your viewing of the contents of the van,  
5 did the device appear to have been assembled in a viable  
6 fashion?

7 A Yes.

8 Q And when I say "viable fashion," what does that mean to  
9 you?

10 A Had the components been live, it would have detonated.

11 Q Okay. And is there -- was there only one way to  
12 construct this device in a viable fashion?

13 A No. It can be constructed several ways. This is one  
14 way.

15 Q Take a look at Government's Exhibit No. 31, and tell me  
16 if you recognize what's depicted in that.

17 A In the book?

18 Q Yes.

19 A That's the cellular phone I had on my person from August  
20 11th through August 12th.

21 Q And what significance, if any, does this have to you?

22 A The device was designed to function when the cellular  
23 phone that was a part of the Time and Power Unit received a  
24 phone call from any call -- or from any number. That phone  
25 was called twice after I inspected the TPU.

*DIRECT EXAMINATION OF BARRY BLACK*

1 Q Okay. And it was called -- do you recognize the number  
2 that called it?

3 A Yes. That 757 number was one of the numbers I was told  
4 that the undercover agent and the subject had.

5 Q Now, the jury has heard testimony that the defendant  
6 dialed the number three times. It appears --

7 MR. STONEMAN: -- well, before we move on, I move to  
8 admit Government's Exhibit 31, your Honor.

9 THE COURT: Any objection?

10 MS. BEHENNA: No objection.

11 THE COURT: It's admitted.

12 Q (By Mr. Stoneman) Based on the screenshot we have here,  
13 it only indicates two missed calls.

14 Do you have an explanation for any discrepancy between  
15 previous testimony that the defendant dialed it three times  
16 versus what's displayed on the phone?

17 A Yes.

18 Q What is that?

19 A I had set up an observation post at the Skirvin Hotel  
20 across the street, which gave me advantage of the approach and  
21 the alley itself. After the van was delivered, I was asked to  
22 go inspect the status of the Time and Power Unit.

23 So I left the Skirvin across the street, inspected the  
24 TPU and the device, went back to the observation post. As I  
25 was in the elevator in the interior of the hotel, the phone

*DIRECT EXAMINATION OF BARRY BLACK*

1 rang once.

2 There were other civilians in the hotel, so I didn't  
3 really feel I could give the execute order with them in the  
4 elevator with me. I went up to the 11th floor where our post  
5 was, and as I exited the vehicle I got a second call.

6 Q You said, "Exited the vehicle."

7 A I'm sorry. Exited the elevator.

8 Q Okay.

9 A So I was in the elevator during the rest of the time.

10 Q Okay. Take a look at Government's Exhibits 32 through  
11 34, and tell me if you recognize what's depicted in those.

12 A Yes.

13 Q And what is depicted in those?

14 A After I recovered the van and took it to a secure  
15 location where it was stored and searched.

16 Q Okay. These -- what is depicted in these?

17 A So Exhibit 32 is an image of the empty bags recovered  
18 from the back of the van --

19 THE COURT: Why don't you go ahead and offer them,  
20 Counsel.

21 MR. STONEMAN: Move to admit 32 through 34, your  
22 Honor.

23 THE COURT: Any objection?

24 MS. BEHENNA: No objection.

25 THE COURT: They're admitted.

*DIRECT EXAMINATION OF BARRY BLACK*

1 THE WITNESS: So Exhibit 32 were the bags that were  
2 recovered from the back of the van, which were empty.

3 Q (By Mr. Stoneman) Okay. Thirty-four -- or 33.

4 A Thirty-three is what's called the firing train. It's the  
5 detonating cord connected to the boosters. The boosters were  
6 in each of the seven tubs.

7 Q Okay. And 34?

8 A Thirty-four is an image of the junction of the seven  
9 pieces of detonating cord with the blasting caps taped to  
10 them. I had coiled up the leg wires just to include them in  
11 the photograph.

12 Q And, to be clear, even though it was constructed, as you  
13 say, in a viable fashion, due to the inert nature of the  
14 components, could this device have ever caused an explosion?

15 A No.

16 Q You told the jury about your extensive training and  
17 experience and your training of others. However, in your  
18 experience and training, is this a particularly complicated  
19 device?

20 A No.

21 Q Does this device require any specialized knowledge to  
22 construct?

23 A No.

24 Q And is the information necessary to design and construct  
25 this device readily available to lay people?

*DIRECT EXAMINATION OF BARRY BLACK*

1 MS. BEHENNA: Your Honor, I object. That's been  
2 asked and answered several times.

3 THE COURT: I'll let him ask it one more time.

4 THE WITNESS: Yes. This is available.

5 Q (By Mr. Stoneman) Okay. And where is that information  
6 available?

7 A The internet and in printed materials.

8 Q Okay. Agent Black, were you involved in a test to  
9 demonstrate what a similar device would have done had the  
10 materials or components been volatile?

11 A Yes.

12 Q And where was that test conducted?

13 A At an Army installation at Fort Riley, Kansas.

14 Q And do you recall approximately when that was conducted?

15 A I believe the 10th of August.

16 Q Okay. Go ahead and take a look in your book at  
17 Government's Exhibits 35 through 45 and tell me if you  
18 recognize those.

19 A I do.

20 Q And what -- what do those photographs depict?

21 A Images of the test at Fort Riley, Kansas, as well as  
22 images of the van I recovered in the alley.

23 MR. STONEMAN: Your Honor, move to admit Exhibits  
24 No. 35 through 45.

25 THE COURT: Any objection?

*DIRECT EXAMINATION OF BARRY BLACK*

1 MS. BEHENNA: Your Honor, we stand on our previous  
2 objection.

3 THE COURT: Okay. Stand by.

4 (Brief pause.)

5 THE COURT: For the reasons previously stated by the  
6 Court, that objection will be overruled. They're admitted.

7 MR. STONEMAN: Could we pull up Government's  
8 Exhibit 35.

9 Q (By Mr. Stoneman) Agent Black, tell us what we're looking  
10 at here.

11 A That is a white van in which we constructed a  
12 thousand-pound ANFO device. And the vehicle to the left is  
13 known as a witness vehicle. It's there for scale and to  
14 demonstrate the force of a blast like this.

15 Q Okay. Is this the same white van that the defendant used  
16 the night of August 12, 2017?

17 A No. This is a different van.

18 Q Okay. And can you tell us a little bit about the --  
19 before we get into the similarities, tell us about the  
20 differences in this test, in this scenario, from the device  
21 used by the defendant.

22 A Obviously, these use live explosives. It was a thousand  
23 pounds of commercial ANFO arrayed in seven plastic containers  
24 in the rear and the same weights and same configuration as the  
25 device I recovered in the alley. It was -- used boosters,

*DIRECT EXAMINATION OF BARRY BLACK*

1 detonating cord, and detonators.

2 Q I can see from the photograph that the windows of this  
3 target vehicle and actually the witness vehicle have been --  
4 appear to already be removed. Why is that?

5 A This is a military range, and for range safety we  
6 mitigate how much debris is left on the range. Different  
7 ranges have different requirements, such as the glass be  
8 removed, fuels and oils be removed to try to mitigate the fire  
9 damage and the environmental hazard.

10 Q Okay. Take a look at Government's Exhibit 36, and tell  
11 us what we're looking at here.

12 A Those are pictures. The picture on the left is the  
13 vantage of the van I recovered in the alleyway. The picture  
14 on the right is an image of the van used in the test shot,  
15 which shows the similarities in configuration.

16 Q And, obviously, the van on the left that the defendant  
17 used has kind of swing -- double swing open doors, and the one  
18 on the right has a single lift door.

19 Does that, based on your training and experience, create  
20 any appreciable difference in the result?

21 A None.

22 Q Take a look at -- actually, while we're here on 36, tell  
23 us what's similar.

24 A So the van I recovered in the alley had the empty ANFO  
25 bags in the rear, four plastic containers, each containing a



*DIRECT EXAMINATION OF BARRY BLACK*

1 hundred pounds of ANFO along the left behind the driver's  
2 seat. Then the three larger trashcans on the right behind the  
3 passenger's seat, each containing 200 pounds of ANFO.

4 The image on the right, the test image, again has the  
5 empty ANFO bags in the rear, four plastic tubs with a hundred  
6 pounds of ANFO each arrayed behind the driver's seat, three  
7 trashcans full of 200 pounds of ANFO apiece right behind the  
8 driver's seat -- I'm sorry -- the passenger's seat.

9 Q Take a look at 37 -- Government's Exhibit 37. What are  
10 we looking at here?

11 A The image on the left is one of the trashcans with the  
12 ANFO, det cord, and booster recovered in the alley. The image  
13 on the right is the trashcans arrayed in the test vehicle.

14 Q And other than the color of the tubs, is it fair to say  
15 the difference here is that the explosive materials on the  
16 BancFirst are inert and the explosive materials on the Fort  
17 Riley test are volatile?

18 A Yes.

19 Q Okay. Take a look at Government's 38. What are we  
20 looking at here?

21 A The image on the left represents three of the four square  
22 tubs that were behind the driver's seat in the van -- that  
23 were located in the van recovered in the alley.

24 The image on the right are three of the four tubs arrayed  
25 behind the driver's seat in the test vehicle.

*DIRECT EXAMINATION OF BARRY BLACK*

1 Q Okay. And take a look at Government's 39. What's  
2 depicted here?

3 A That's an image of the range that provides a vantage of  
4 the test vehicle, the van on the right, and then the witness  
5 vehicle on the left.

6 Q Okay. And we've talked about some of the similarities  
7 between this bomb and the inert bomb used by the defendant.

8 The inert bomb you have testified, and the jury has heard  
9 that it was designed to be activated by a Time Power Unit  
10 with -- by a cell phone call.

11 Did you use the same type of activation device in the  
12 Fort Riley test?

13 A No. For our safety and under range requirements, we  
14 initiated the device by using what's called shock tube.

15 Q Okay.

16 A It gives us absolute control over the device so there is  
17 no chance of an errant phone call or strike signal.

18 Q When you say "errant phone call," what are you referring  
19 to there?

20 A If we had used a Time and Power Unit with a cellular  
21 phone, if there was a wrong number called or a robocall, the  
22 device would have functioned outside our control.

23 Q Okay. Take a look at Government's Exhibit No. 40. What  
24 are we looking at here?

25 A These are images of the blast.

*DIRECT EXAMINATION OF BARRY BLACK*

1 Q And are these -- these are both from Fort Riley?

2 A Yes.

3 Q And what --

4 MR. STONEMAN: Ms. Hadrava, can you focus in on the  
5 image on the right? Can you get a little bit more at the top?

6 Q (By Mr. Stoneman) Agent Black, I am going to kind of  
7 point to this image right -- or this part of the image right  
8 here (indicated) that I'm pointing at. And I don't know if  
9 the jury can see that.

10 Can you describe what I'm pointing at here?

11 A Yes. So at the instant of detonation, the explosive  
12 material is converted into a tremendous volume of gas, and it  
13 creates a tremendous spike in pressure.

14 So there are basically three effects in an explosion like  
15 this. The thermal effect, which you see here, is a fireball.  
16 It's very brief but very intense. What's known as the  
17 fragmentation effect, which is the vehicle coming apart at a  
18 very rapid speed.

19 But most of the work is done by the change in pressure.  
20 Tremendous change in ambient pressure. There is a void  
21 created at the point of detonation, and the atmosphere  
22 begins to -- is compressed and begins to rush out at  
23 supersonic speeds.

24 That blurry image that you see that was highlighted  
25 previously is the leading edge of what's called the positive

*DIRECT EXAMINATION OF BARRY BLACK*

1 pressure phase, known as the shock front. It's a highly  
2 compressed area of air that delivers a hammer blow to the  
3 environment.

4 And then following that is the trailing edge of that  
5 positive pressure phase, which delivers a great deal of  
6 damage.

7 This all happens in a small fraction of a second, in  
8 milliseconds, so we use special photography to capture this  
9 image.

10 Once that positive pressure phase dissipates over space  
11 and time, begins to slow down, it begins to rush backwards to  
12 fill in that void that was created at the se- -- time of the  
13 explosion. That's known as the negative pressure phase.

14 It's still higher than ambient pressure, lasts about four  
15 times as long, and that also creates load and drag forces on  
16 the environment.

17 Q You mentioned that the positive pressure requires both  
18 space and time to dissipate. This test was obviously  
19 conducted at a field in Kansas.

20 What effects would -- what effect on the shock front or  
21 the positive pressure phase of this explosion would it have if  
22 this explosion had occurred in the alleyway where Mr. Varnell  
23 parked the van?

24 A Confined explosions, whether it was rigid structures,  
25 such as concrete walls, brick walls, serve much like an echo

*DIRECT EXAMINATION OF BARRY BLACK*

1 chamber. That positive pressure phase, the shock front, if  
2 you will, is reflected when it impacts rigid structures.

3 And the studies show that the instant pressure, the  
4 regular pressure generated at the point of the explosion, can  
5 be exponentially modified. So the reflected pressures can be  
6 two, four, eight, as high as 13 times the incident pressure.

7 Q Go ahead and take a look at Government's Exhibit 42 --  
8 I'm sorry -- 41, and tell us what we're looking at here.

9 A Again, that's another vantage at that instant of  
10 detonation. Near visible is the thermal effect, or fireball.  
11 And you can see the fragmentation effect depicted as well.

12 Those large pieces are parts of the van that are  
13 traveling out at significant speeds.

14 Q Okay. Take a look at Government's Exhibit No. 42. What  
15 is this?

16 A It's where the van was. The van was completely  
17 destroyed. It left only a crater that was roughly  
18 13-feet-by-15-feet by 2-to-2-and-a-half-feet deep.

19 Q Okay. Government's Exhibit No. 43, what is this?

20 A That's part of the witness vehicle, the vehicle that was  
21 next to the van. It was basically blown into three large  
22 pieces. This piece was located roughly 75 feet from its point  
23 of origin.

24 Q Government's Exhibit 44, what's this?

25 A That's a second large part of the witness vehicle, the

*DIRECT EXAMINATION OF BARRY BLACK*

1 one that was parked next to the van. And it was recovered, I  
2 think, about 162 feet from its point of origin.

3 Q Government's Exhibit 45?

4 A Again, part of the witness vehicle that was next to the  
5 van. It was recovered over 200 feet away from its point of  
6 origin.

7 MR. STONEMAN: May I have a moment to confer, your  
8 Honor?

9 THE COURT: Certainly.

10 (Brief pause.)

11 Q (By Mr. Stoneman) And do we have any actual photographs  
12 of the pieces of the test van?

13 A There were photographs taken. We recovered -- the  
14 terrain limited our search, but we found pieces of the van  
15 over a thousand feet away.

16 Q Okay. Agent Black, based on your training and  
17 experience, had the device Mr. Varnell attempted to use been  
18 volatile -- in other words, had those component materials not  
19 been inert -- what damage, if any, would it have done to the  
20 BancFirst building?

21 A I believe it would have effectively destroyed it as well  
22 as the building to the north.

23 Q Okay.

24 MR. STONEMAN: Pass the witness, your Honor.

25 THE COURT: Cross-examination?

*CROSS-EXAMINATION OF BARRY BLACK*

1 MS. BEHENNA: Yes, your Honor.

2 **CROSS-EXAMINATION**

3 BY MS. BEHENNA

4 Q Agent Black, I believe that you were involved in the  
5 investigation of McVeigh and Nichols; is that right?

6 A Yes.

7 Q And I believe that you testified earlier that the bomb  
8 that McVeigh and Nichols prepared in downtown Oklahoma City  
9 was an ammonium nitrate fuel oil bomb detonated by det cord  
10 and dynamite and maybe a two-minute fuse was used to actually  
11 begin the detonation process. Is that right?

12 A I believe that's so, yes.

13 Q Okay. And so all bombs need an ignition source; right?  
14 Dynamite or blasting cap or something?

15 A Yes.

16 Q Okay. Now, your involvement in this investigation began  
17 when?

18 A I believe the first contact I had was January 2017.

19 Q Okay. Because you said during your direct examination  
20 that many weeks and months went by before you were contacted  
21 again. I assume to provide the material for this inert bomb?

22 A As I recall, there were discussions between the initial  
23 time I was contacted as other information became available  
24 concerning the viability of what was being planned.

25 Q Okay. But there were several weeks or months in between

*CROSS-EXAMINATION OF BARRY BLACK*

1 this January 20th date, when you were initially contacted, and  
2 the time that you began obtaining the components to make this  
3 bomb, right, in June?

4 A Yes. That's correct.

5 Q All right. And your involvement in this investigation  
6 during that period of time was what, just wait and see what  
7 happened?

8 A Early on it was to advise whether the information was  
9 even viable or credible. And as it became more apparent that  
10 something was going to happen, it's part of my job to, for  
11 public safety, ensure that we provide the inert materials.

12 Q Sure. And I assume the information that you are talking  
13 about that was becoming available was the information being  
14 provided by Brent Elisens?

15 A My contact was with the task force agents and officers.

16 Q All right. Did you know that Brent Elisens was the  
17 source in providing information to the FBI?

18 A I found that out later.

19 Q You are familiar with Brent Elisens, are you not?

20 A Yes.

21 Q I think you were the investigating FBI agent when he was  
22 prosecuted in September of 2015 -- or 2010, I'm sorry.

23 A That's correct.

24 Q Were you familiar --

25 MS. BEHENNA: Well, can I have Government's Exhibit



*CROSS-EXAMINATION OF BARRY BLACK*

1 202.37, please.

2 Q (By Ms. Behenna) Were you given any information about the  
3 content --

4 MS. BEHENNA: And just the bottom part, Karen, blow  
5 it up.

6 Q (By Ms. Behenna) Were you given any information about the  
7 content of the discussion Mr. Elisens was having with  
8 Mr. Varnell?

9 A No. Other than just generic phrases such as the  
10 thousand-pound device. I have not seen this.

11 Q You have not seen this --

12 A No.

13 Q -- message?

14 A No.

15 Q And this message, I believe, says that he was going to  
16 go -- Mr. Varnell texting said that he was going to go with  
17 what the Oklahoma City bomber used, diesel fuel, and I think  
18 it says anhydrous ammonia; right?

19 A That's what it says.

20 Q I just want to be clear that anhydrous ammonia was not  
21 used in the Oklahoma City bombing, was it?

22 A No.

23 Q What about acetone? Was acetone used in the Oklahoma  
24 City bombing?

25 A I don't believe so.

*CROSS-EXAMINATION OF BARRY BLACK*

1 Q Is acetone used to make an ammonium nitrate bomb?

2 A Can be used in the detonators or the boosters if those  
3 are improvised. Acetone is one of the components of  
4 triacetone triperoxide I mentioned earlier.

5 Q And, again, that's quite a process for somebody to make  
6 that on their own; is that right?

7 A It's not very complex. We have encountered those before,  
8 like at the OU bombing in '05.

9 Q Well, let me ask you this. Is there any information that  
10 you received during the course of this investigation from the  
11 case agent that Mr. Varnell had the knowledge and wherewithal  
12 to be able to actually make and acquire acetone to make an  
13 ammonium nitrate bomb?

14 A I was told that he had been experimenting with homemade  
15 explosives, but I didn't know what kind.

16 Q And what kind -- okay.

17 C-4. That's completely different than an ANFO bomb;  
18 right?

19 A C-4 is different than ANFO, yes.

20 Q Okay. And, I guess, back to my original question, the  
21 Oklahoma City bomber did not use acetone; right?

22 I mean, they had det cord. They had det cord and  
23 blasting caps.

24 A We know what was stolen during that case.

25 Q That's right.

*CROSS-EXAMINATION OF BARRY BLACK*

1 A We don't know exactly what was used, but we --

2 Q Fair enough.

3 A -- know what was stolen and presume that the stolen  
4 materials was used.

5 Q Which was det cord and blasting caps?

6 A Yes.

7 Q And you talked about needing wiring or somebody could  
8 make det cord by using a copper wire, but it was a pretty  
9 laborious process; right?

10 A No, ma'am. I said making detonating cord, that doesn't  
11 require the copper wire. Those are two different things.

12 Q Okay.

13 A Those are detonators that require the copper wire.

14 Q Thank you. And I mixed that up.

15 But, you're right, the red and yellow leg wires on the  
16 blasting caps is a copper wire?

17 A Correct.

18 Q All right. But it has to be affixed to a detonation  
19 source in order to be able to conduct that energy to the -- to  
20 dynamite or a blasting cap; is that right?

21 A Some type of power source, yes.

22 Q Right. Okay.

23 What about matches? Were matches used in the Oklahoma  
24 City bombing?

25 A We believe that McVeigh initiated that device with a

*CROSS-EXAMINATION OF BARRY BLACK*

1 burning time fuse, so he would have had to have matches or  
2 lighters or something.

3 Q One match. Were hundreds of matches used? Do you know?

4 A I don't know.

5 Q All right. Did you review any reports that were being  
6 prepared during the course of your involvement in this  
7 investigation?

8 A No.

9 Q Were you aware at any point during the investigation that  
10 Mr. Varnell might be suffering from schizophrenia?

11 A No.

12 Q Now, I believe it was on June 22nd you were asked to  
13 obtain some inert -- that means nonexplosive material; right?

14 A I would have to look at the date, but I did make that  
15 request, yes.

16 Q Okay. And, just to be clear, you provided the Austin  
17 power cast boosters?

18 A Austin powder, yes.

19 Q Thank you.

20 And the gel matchsticks, which would be dynamite; right?

21 A Yes.

22 Q The det cord and the bags of inert ANFO?

23 A Yes.

24 Q All right. And you provided that material to the  
25 undercover in this case; correct?

*CROSS-EXAMINATION OF BARRY BLACK*

1 A Yes.

2 Q All right. And when you sat down with the undercover,  
3 did you explain to him how this ammonium nitrate fuel oil bomb  
4 is built?

5 A Yes.

6 Q Okay. Did you go through the process step by step?

7 A Yes.

8 Q And the reason for that is so that the undercover  
9 employee would know how to make an ANFO bomb; right?

10 A Right.

11 Q Was there some concern, Agent Black, that if the  
12 undercover didn't know how to make this bomb that Mr. Varnell  
13 would not?

14 A No. The story for the undercover was that he had  
15 assisted a blaster or quarrier that was the person that  
16 provided the explosives, so he would naturally have some  
17 background as to how to assemble it.

18 Q And so he could direct Mr. Varnell --

19 A No.

20 Q -- if needed?

21 A Just so he would know how.

22 Q Have you seen the video of them building the bomb in the  
23 storage unit?

24 A I witnessed the first few minutes of that on  
25 closed-circuit TV before I left for the Skirvin Hotel that

*CROSS-EXAMINATION OF BARRY BLACK*

1 night.

2 Q And you have not seen it since?

3 A No.

4 Q I believe Government's Exhibit No. 16 are the  
5 instructions that you wrote and gave to the undercover in this  
6 case; is that right?

7 A Yes.

8 Q Okay. And you wrote pretty specific instructions about  
9 how to detonate, for lack of a better term, or to start the  
10 ignition source, the Time and Power Unit in this case; is that  
11 right?

12 A Yes.

13 Q All right. And, again, were those instructions -- did  
14 you know that those instructions were going to be given to  
15 Mr. Varnell?

16 A I presumed they would be.

17 Q Is that because the FBI was concerned that if Mr. Varnell  
18 didn't know how to detonate a Time and Power Unit that he  
19 wouldn't be able to do it?

20 A The Time and Power Units are each unique in their  
21 construction. And in that it was provided to him, it would be  
22 normal to provide instructions on how to use it.

23 Q And it was provided to him -- we are talking about the  
24 Time and Power Unit -- by the FBI?

25 A Yes.

*CROSS-EXAMINATION OF BARRY BLACK*

1 Q Did you know that the FBI not only provided the inert  
2 material that you've discussed already but provided the  
3 barrels to Mr. Varnell in this case?

4 A No.

5 Q Did you know that Mr. Varnell was asked several times to  
6 obtain barrels and he never did?

7 A No.

8 Q And it's important to have barrels in an ANFO bomb, is it  
9 not, to hold the ANFO?

10 A No. This type of explosive doesn't require any kind of  
11 confinement.

12 Q But at least in this case, the FBI thought it was  
13 important -- or at least the undercover thought it was  
14 important that Mr. Varnell obtain barrels?

15 A I'm not sure what the undercover thought.

16 Q Okay. And what about the van?

17 Did you know that Mr. Varnell had been asked several  
18 times to obtain a van or a box truck or a trailer?

19 A I remember discussions about the van.

20 Q That he had been asked to obtain one?

21 A Yes.

22 Q And he didn't, did he?

23 A I'm not sure how that came to be. I just don't know.

24 Q Did you know it was actually Mr. Elisens, at the  
25 direction of the case agent, who obtained a van --

*CROSS-EXAMINATION OF BARRY BLACK*

1 A No.

2 Q -- to put this bomb in?

3 A No.

4 Q And the storage unit where the bomb was built, did you  
5 know that the FBI provided that?

6 A Yes.

7 Q The black electrical tape that was necessary to tie the  
8 det cord to the blasting caps, did you know that the  
9 undercover gave money to Mr. Varnell so that he could purchase  
10 that after he had failed to purchase electrical tape before  
11 August 11th, when the plan was to make this bomb?

12 A I wasn't privy to any of that that night. I have since  
13 learned that, yes.

14 Q Did you know -- you talked during direct examination that  
15 the time and power -- or the cell phone had been called two or  
16 three times by Mr. Varnell --

17 A Yes.

18 Q -- right?

19 Did you know that he did that at the instruction of the  
20 undercover?

21 A No.

22 Q And, of course, the op plan in this case was, once you  
23 received the call on the cell phone that you had, that that  
24 would start the initiation -- or begin the initiation of the  
25 arrest of Mr. Varnell once he -- it was clear that he had



*CROSS-EXAMINATION OF BARRY BLACK*

1     tried to detonate this inert bomb.

2     A     Yes.

3     Q     Is it fair to say, Agent Black, from what you know about  
4     this investigation, that the only act Mr. Varnell did on his  
5     own to obtain the bomb components, to build the bomb, to  
6     detonate the bomb was calling the cell phone number that you  
7     instructed him to call?

8     A     I'm sorry. Would you repeat that question?

9     Q     I hope I can.

10           It's true, is it not, Agent Black, that the only action  
11     Mr. Varnell took on his own was calling the cell phone number  
12     that you provided to him?

13     A     That's not my understanding.

14     Q     And is your understanding obtained from your personal  
15     knowledge or from the case agent in this case?

16     A     Well, from my case agent -- from the case agent and my  
17     participation as I've outlined.

18     Q     During your direct examination you talked about these  
19     materials, and I'm talking about the bomb components for an  
20     ANFO bomb. And you have extensive training, obviously, in WMD  
21     and blast investigations.

22           Do you know whether or not in the United States since  
23     1995 -- have there been any terrorist or illegal detonations  
24     of an ANFO bomb?

25           MR. STONEMAN: Objection. Relevance, your Honor.

*CROSS-EXAMINATION OF BARRY BLACK*

1 THE COURT: Overruled.

2 THE WITNESS: I'm sorry. Your question?

3 Q (By Ms. Behenna) You're testing my memory here, Agent  
4 Black.

5 Since 1995, have there been any terrorist or illegal  
6 detonations of an ANFO bomb in the United States?

7 A There was an incident in Times Square of an improvised  
8 vehicle bomb, but I don't believe it contained ANFO. And I  
9 don't know of other instances where ANFO has been used since  
10 1995 off the top of my head.

11 Q And the reason for that, Agent Black, is because even  
12 ammonium nitrate is highly regulated these days. Isn't that  
13 right?

14 A I don't believe so.

15 Q Okay. Do you know that there are laws that are  
16 enacted --

17 MS. BEHENNA: May I have just a moment, your Honor?  
18 (Brief pause.)

19 MS. BEHENNA: May I have just a second?

20 THE COURT: Certainly.

21 MS. BEHENNA: Excuse me, your Honor.  
22 (Brief pause.)

23 Q (By Ms. Behenna) Well, before we get to the regulation  
24 and the laws, let me ask you, after the Oklahoma City bombing,  
25 were there a number of programs that were initiated here in

*CROSS-EXAMINATION OF BARRY BLACK*

1 the United States to make fertilizer stores aware if somebody  
2 came in and tried to buy large amounts of ammonium nitrate?

3 A We're not a regulatory authority, so I'm not sure of the  
4 regulations. But we do place a great deal of emphasis on the  
5 "see something say something" type of provision.

6 Q Exactly. And there were a lot of programs -- the  
7 "American security begins with you," that might be the "see  
8 something say something."

9 And so I guess my point is that sellers of ammonium  
10 nitrate were encouraged, I think by the ATF, to notify law  
11 enforcement if they saw suspicious activity as it related to  
12 somebody wanting to buy ammonium nitrate.

13 A I presume that to be the case, but I don't know.

14 Q Are you familiar with a law that was enacted in 2007 that  
15 restricted the purchase of ammonium nitrate?

16 A I'm not.

17 Q You're not?

18 A I'm not.

19 Q If I represented to you that there was a law enacted  
20 where the Secretary of the Department of Homeland Security  
21 regulated the sale and transfer of ammonium nitrate after  
22 March of 2008, would you have any reason to disagree with  
23 that?

24 A Again, I'm just not familiar with it.

25 Q Even as part of your knowledge of explosives and bombs?

*CROSS-EXAMINATION OF BARRY BLACK*

1 A Right. My end of it is the IED explosive component, not  
2 so much the regulation --

3 Q Okay.

4 A -- of the components.

5 Q Okay. It's true, is it not, Agent Black, that  
6 Mr. Varnell could not have purchased ammonium nitrate without  
7 raising -- in the amounts of a thousand pounds -- without  
8 raising suspicion?

9 A I disagree. With the agrarian nature of Oklahoma, large  
10 purchases of fertilizer are frequent.

11 Q Are you familiar with the Oklahoma law about someone who  
12 wants to purchase ammonium nitrate?

13 A I am not.

14 Q Okay. That they have to give their driver's license --  
15 they identify themselves, show a driver's license, and what  
16 they are using the ammonium nitrate for? Are you aware of  
17 those laws?

18 A Again, I am not familiar with the regulation, no.

19 Q And, again, all of that was done after 1995, to restrict  
20 the easy access of somebody who wanted to do something bad to  
21 ammonium nitrate; correct?

22 A As far as I know. I assume so, yes.

23 Q All right. It's also true, Agent Black, that Mr. Varnell  
24 could not have gone in and purchased ANFO; right?

25 A Not without a permit or a license.

*CROSS-EXAMINATION OF BARRY BLACK*

1 Q Right. And the reason for that is that ANFO was  
2 determined to be an explosive; right?

3 A Yes.

4 Q Okay. And when we talk about these permits and licenses,  
5 again, the federal government has regulated who can buy  
6 explosives in order to protect people; correct?

7 A Yes.

8 Q All right. And so it's clear that he could not have  
9 bought ammonium nitrate fuel oil mixture, because that's  
10 identified as an explosive; correct?

11 A Yes.

12 Q He could not have purchased blasting caps, because that's  
13 identified as an explosive -- without a permit or a license;  
14 correct?

15 A Correct.

16 Q All right. Mr. Varnell could not have purchased det cord  
17 without a license or a permit; correct?

18 A Yes.

19 Q Couldn't have purchased dynamite without a license or a  
20 permit?

21 A Correct.

22 Q Now, I believe you said in your direct examination that  
23 somebody could steal these component parts. Do you remember  
24 that?

25 A Yes.

*CROSS-EXAMINATION OF BARRY BLACK*

1 Q But it's true, is it not, Agent Black, that a facility  
2 that has explosives material is required to report to law  
3 enforcement any thefts of explosives?

4 A That's a requirement, yes.

5 Q So the likelihood of Mr. Varnell being able to go out and  
6 steal the explosive components for an ANFO bomb without that  
7 information ever getting -- without the theft getting to law  
8 enforcement is highly unlikely?

9 A Not really. As we mentioned, the Oklahoma City bombing,  
10 the explosives were stolen there. And there was a theft  
11 report. But until we searched for that theft report, the FBI  
12 was unaware of the theft.

13 Q Fair enough.

14 After 1995, in modern day, in 2017, it is highly unlikely  
15 that a theft of explosive material would have occurred without  
16 that information getting to the FBI; correct?

17 A It requires that the organization that had the explosives  
18 stolen actually file the report, which sometimes doesn't  
19 happen. And then that report would get filed with another  
20 agency, not with the FBI. But we have access to those theft  
21 reports.

22 Q Of course you do.

23 And a facility that has explosive materials and fails to  
24 report, they take -- face pretty serious penalties if they  
25 don't report a theft; correct?

*CROSS-EXAMINATION OF BARRY BLACK*

1 A I am not familiar with the regulation, but, yes, I  
2 believe so.

3 Q Okay. So your statement that you didn't want  
4 Mr. Varnell -- you or the FBI didn't want Mr. Varnell to  
5 provide the components and that's why you all -- you, the  
6 FBI -- provided the components to build this inert ANFO bomb,  
7 really there was no danger with all the rules and regulations,  
8 Agent Black.

9 A No. I believe there was imminent danger, yes.

10 Q Do you have any evidence to support that statement?

11 A I am familiar with devices domestic --

12 Q In this case. In this case, do you have any evidence?

13 A I only know what I was told by the task force officers  
14 and agents regarding Mr. Varnell's intent, his statements  
15 regarding homemade explosives, the type of device he wanted to  
16 use, and how it was to function.

17 Q And is that Task Force Officer Brian Martin?

18 A I spoke with Task Force Officer Brian Martin and the case  
19 agent, Eric Larsen.

20 Q Did you know in an FBI report that Brian Martin said,  
21 "Varnell does not have a job or a vehicle at this time. The  
22 threat has not been repeated and Mr. Varnell does not appear  
23 to have the means to actually commit this act at this time"?

24 A I haven't seen that report.

25 Q And that's the task force officer that was highly and --

*CROSS-EXAMINATION OF BARRY BLACK*

1 very involved in this investigation; right? Brian Martin?

2 A One of the two, yes.

3 Q With regard to the purchase or theft or making of ANFO,  
4 Agent Black, do you have any evidence before the FBI got  
5 involved in this case that Mr. Varnell had purchased, stolen,  
6 or was making ANFO?

7 A The only information I had was what I was told, that he  
8 had experimented with homemade explosives.

9 Q C-4.

10 A I wasn't told that.

11 Q So, again, the question is: What information do you  
12 have, personally, that Mr. Varnell was trying -- had  
13 purchased, stolen, or was trying to make ANFO?

14 A Only what I was told by the Joint Terrorism Task Force  
15 officers.

16 Q But it didn't have anything to do with making ANFO;  
17 right?

18 A Homemade explosives can include ANFO, so I didn't know  
19 what they were talking about.

20 Q Okay. Prior to the time the FBI got involved in this  
21 case, can you tell me what information you had that  
22 Mr. Varnell -- or what evidence there was that Mr. Varnell had  
23 acquired or was making det cord?

24 A I'm sorry. Repeat your question. Before we were  
25 involved?



*CROSS-EXAMINATION OF BARRY BLACK*

1 Q Before the FBI was involved and provided the components  
2 to make this bomb, what evidence do you have that Mr. Varnell  
3 had acquired or was making det cord?

4 A None.

5 Q Before the FBI got involved in providing the component  
6 parts to this inert bomb, what evidence do you have that  
7 Mr. Varnell had acquired or was making blasting caps?

8 A Only the statement that he was making homemade  
9 explosives. And, again, I don't know what type that might  
10 have been.

11 Q Fair enough.

12 Prior to the FBI providing the components for this inert  
13 bomb, what evidence do you have that Mr. Varnell had acquired  
14 or was making a TPU, a Time and Power Unit?

15 A I was told that he wanted to initiate the device with a  
16 cellular phone and that he had electronics background and was  
17 capable of assisting in making that type of firing device.

18 Q Fair enough. I didn't ask the question clearly enough.

19 What evidence do you have that he was acquiring, either  
20 by theft or making, a Time and Power Unit?

21 A I don't have any other information other than those  
22 statements.

23 Q Agent Black, have you ever been involved in an  
24 investigation where the FBI, having information that somebody  
25 was talking about or making threats to build a bomb or

*CROSS-EXAMINATION OF BARRY BLACK*

1 detonate a bomb -- have you been involved in instances and  
2 investigation where the FBI goes out and talks to that person  
3 initially to try to let them know that the FBI is aware of  
4 their chats or their discussions and that they need to stop?

5 A I don't do that in my capacity. And I think it would be  
6 a case-specific kind of thing.

7 Q But it has happened before; correct?

8 A I don't know.

9 Q And it's possible for the FBI to monitor somebody in a  
10 chat room to see how serious and whether they have the  
11 capability to carry out a threat or build a bomb as they are  
12 talking about online; right?

13 A I believe we have the capability to monitor those  
14 conversations, but I am not a computer person so I don't know  
15 the details of that.

16 Q No. That's fair enough. I understand.

17 The FBI also has the ability to do surveillance over  
18 someone's property to see if they have any explosives on their  
19 property or whether they've detonated explosives in the past;  
20 correct?

21 A Yes.

22 Q Do you know if any of those things happened in this case?

23 A I do not.

24 MS. BEHENNA: I think I am almost finished. If I  
25 can have just a moment, your Honor.

*CROSS-EXAMINATION OF BARRY BLACK*

1 THE COURT: Certainly.

2 (Brief pause.)

3 Q (By Ms. Behenna) It's true, is it not, Agent Black, that  
4 the FBI targets criminal activity? Correct?

5 A Yes.

6 Q They don't target people; correct?

7 A People engaged in criminal activity.

8 Q I understand that. But you don't -- I mean, you don't --  
9 the FBI doesn't make an assessment of somebody and targets  
10 that person because they don't like them or they don't like  
11 what their chatter is online; correct?

12 A Right. The investigations are open based on qualified  
13 information.

14 Q And criminal activity; correct?

15 A Could be criminal activity, counterespionage, or  
16 counterintelligence.

17 Q Fair enough. Fair enough.

18 I guess my question is, Agent Black, prior to the FBI  
19 getting involved in this conversation and investigation -- and  
20 I'm talking about March 17th, when Mr. Elisens began  
21 initiating conversations with Mr. Varnell -- do you know what,  
22 if any, criminal activity Mr. Varnell was engaged in prior to  
23 that?

24 A I was unfamiliar with the parameters of the case other  
25 than the feasibility of the device, as I had mentioned before.

*REDIRECT EXAMINATION OF BARRY BLACK*

1 MS. BEHENNA: Can I have just a moment, your Honor?

2 THE COURT: Certainly.

3 (Brief pause.)

4 MS. BEHENNA: I believe that's all I have, your  
5 Honor.

6 THE COURT: All right. Thank you.  
7 Redirect, government?

8 MR. STONEMAN: Yes, your Honor.  
9 Can you pull up 202.37.

10 **REDIRECT EXAMINATION**

11 BY MR. STONEMAN

12 Q Agent Black, Ms. Behenna asked you whether or not Timothy  
13 McVeigh used anhydrous ammonia in the bomb -- the Oklahoma  
14 City bomb. And your answer was what?

15 A I don't believe so.

16 Q Okay. And I don't know if you can read that. Can you  
17 read that, the statement in green?

18 A I can.

19 Q Can you go ahead and read it out loud?

20 A "I think I'm going to go with what the OKC bomber used,  
21 diesel and anhydrous ammonia. I might have to make a  
22 distillery to process some stuff, but that's a solid recipe."

23 Q What is your understanding of anhydrous ammonia being  
24 involved in any sort of recipe for an ANFO bomb, if any?

25 A Anhydrous ammonia can be used to make ammonium nitrate,

*REDIRECT EXAMINATION OF BARRY BLACK*

1 which would be the oxidizer part of the diesel and oxidizer in  
2 ANFO.

3 Q Okay. What other -- tell us about -- what do you know  
4 about anhydrous ammonia, its availability, its uses?

5 A It's commonly used in agriculture as a fertilizer. And  
6 through a chemical process called nitration, it can be made  
7 into ammonium nitrate.

8 Q Any other illicit uses for anhydrous ammonia?

9 A I believe it's used in narcotics as well, but that's not  
10 my forte so I don't know.

11 Q Okay. I wasn't quite clear. Ms. Behenna asked you  
12 whether a person can just, say, go to a store and buy some  
13 ammonium nitrate fertilizer. Is it your understanding that  
14 they can or can't do that?

15 A It is readily available, yes.

16 Q And can you think of any reasons -- well, Ms. Behenna  
17 asked -- indicated that buying ammonium nitrate in large  
18 quantities might set off some red flags.

19 Can you think of any reason that a person might --  
20 although it might be more difficult to make anhydrous  
21 ammonia -- excuse me -- ammonium nitrate from anhydrous  
22 ammonia, based on your training and experience, can you think  
23 of a reason that a person might, rather than purchasing  
24 ammonium nitrate directly, make it out of anhydrous ammonia?

25 A To avoid detection, if you have to provide ID or going to

*REDIRECT EXAMINATION OF BARRY BLACK*

1 a store and be recognized. If you didn't want to buy it, then  
2 you could make it. It's just a difficult process given the  
3 ready availability of ammonium nitrate here.

4 Q All right. And Ms. Behenna also asked you about the role  
5 of acetone, if any, in composing -- or creating homemade  
6 explosives.

7 And what's your understanding of the viability of acetone  
8 as an ingredient in explosives?

9 A Acetone is one of the ingredients used in making a highly  
10 sensitive explosive that's commonly used by terrorists known  
11 as triacetone triperoxide. Acetone is one of the primary  
12 components of making TATP.

13 Q Where can a person get acetone?

14 A It's readily available at hardware stores, paint stores.

15 Q Do you need a license to buy acetone?

16 A No.

17 Q Do you even need to show your driver's license to buy  
18 acetone?

19 A No.

20 Q Are you familiar with the process for constructing or  
21 making C-4?

22 A C-4 is a commercial military explosive not readily made  
23 at home. There is a version called poor man's C-4, which is  
24 relatively easy to make --

25 Q Okay.

*REDIRECT EXAMINATION OF BARRY BLACK*

1 A -- and instructions are readily available.

2 Q C-4 -- making homemade C-4, is that more complicated,  
3 less complicated, or about the same complexity as constructing  
4 an ANFO bomb?

5 A Again, C-4 is a plastic explosive. It would be very  
6 difficult to make at home. A poor man's C-4, as it's commonly  
7 known, is very easy to make.

8 Q Okay.

9 A It's just a combination of two dry materials.

10 Q Ms. Behenna asked you about the op plan, that it was the  
11 operation plan to arrest Mr. Varnell immediately after he --  
12 after he dialed the phone.

13 Is that your understanding of what was the plan, that  
14 once he dialed the phone, that they were just going to arrest  
15 him or did you need to look at something first?

16 A So that night the IED would have been triggered by a  
17 phone call to the TPU phone. The identical phone was in my  
18 possession. So the plan was that once I received that call or  
19 a call to that phone, which would have detonated the device, I  
20 would notify the command post and the command post would  
21 provide the execution order to arrest Mr. Varnell.

22 Q Okay. Ms. Behenna asked you about the need for barrels  
23 or tubs, and you indicated that you didn't believe that those  
24 would actually be necessary for this type of device to be  
25 viable.

*REDIRECT EXAMINATION OF BARRY BLACK*

1           What other viable solutions could have made this bomb  
2 explode without barrels?

3       A     High explosives like ANFO don't require confinement. So  
4 you could literally just stack the bags on top of each other,  
5 introduce the booster, which is required to make that type of  
6 explosive detonate. So they don't require confinement.

7       Q     Okay. And Ms. Behenna asked you whether or not certain  
8 materials were used by Mr. McVeigh -- Timothy McVeigh in his  
9 bomb in 1995, and you indicated you did or didn't know what  
10 was -- exactly was used in that bomb.

11      A     We believe, during the course of that investigation, that  
12 ammonium nitrate was purchased at a fertilizer feed store.  
13 Nitromethane was the fuel used. And then stolen explosives  
14 from a quarry were used. I believe it was Tovex, some det  
15 cord, and blasting caps.

16      Q     Okay. But do you know for sure exactly what he used in  
17 that bomb?

18      A     We believe that was the configuration since that's what  
19 was stolen, but it was all consumed in the detonation and  
20 explosion, so --

21      Q     And you say "consumed." You mean it was destroyed --

22      A     Destroyed.

23      Q     -- by the bomb?

24            Are you familiar with -- well, let's talk a little bit  
25 about the knowledge required to make some of these components



## REDIRECT EXAMINATION OF BARRY BLACK

1 at home.

2 You mentioned on direct -- or I may have mentioned on  
3 direct that some of this information is available on the  
4 internet. Is that correct?

5 A That is correct.

6 Q Are you familiar with a book or writing called *The*  
7 *Anarchist Cookbook*?

8 A Yes.

9 Q Okay. What is that?

10 MS. BEHENNA: Your Honor, I object. There is no  
11 evidence in this case about anybody having access to that  
12 book, and I think it's irrelevant and highly prejudicial.

13 MR. STONEMAN: Your Honor, may we approach?

14 THE COURT: You may.

15 (The following proceedings were had at the bench outside  
16 the hearing of the jury:) \*\*\*

17 MR. STONEMAN: Your Honor, we anticipate, as part of  
18 Mr. Varnell's interview post arrest, that he mentioned that he  
19 had reviewed *The Anarchist Cookbook*.

20 MS. BEHENNA: That is new to me. I have never heard  
21 that. I guess we can ask the question after they play the  
22 video of the confession, but I don't recall there being  
23 anything like that.

24 THE COURT: All right. Well, that brings up one  
25 point, I suppose. I reviewed that video yesterday. It's

*REDIRECT EXAMINATION OF BARRY BLACK*

1 lengthy.

2 Do you guys plan on playing that whole video?

3 MR. STONEMAN: I will defer to Mr. Dillon.

4 THE COURT: Do you plan on playing the whole video?

5 MR. DILLON: We plan on playing the majority of it.  
6 Obviously, at points they took breaks. I believe there was a  
7 30-minute break and 15- and 20-minute break. There is four to  
8 six minutes at the beginning that would obviously have no use  
9 to us.

10 We're skipping over the portion on the consent to the  
11 phone, which takes another ten minutes out of it. We are  
12 shaving what we can, but we think it's important due to his  
13 words but also his demeanor during that time.

14 THE COURT: Okay. With respect to the issue at  
15 hand, Counsel, if you want to go into it, I am going to accept  
16 your representation that it's talked about during his  
17 interview and that he says he's reviewed it.

18 If that is not borne out by the interview, then I'm going  
19 to give the jury an instruction that I am striking all of the  
20 testimony on this.

21 And, you know, this is redirect, so let's get to the  
22 point.

23 MR. STONEMAN: Yes, your Honor.

24 THE COURT: Keep it narrow. All right.

25 (The following proceedings were had in open court:)

CHRISTINA L. CLARK, RPR, CRR  
United States Court Reporter  
200 N.W. Fourth Street, Suite 5419  
Oklahoma City, Oklahoma 73102  
christina\_clark@okwd.uscourts.gov - ph(405)609-5123

## RECROSS-EXAMINATION OF BARRY BLACK

1 THE COURT: The objection is overruled. Proceed.

2 Q (By Mr. Stoneman) As I was saying, are you familiar with  
3 a piece of writing known as *The Anarchist Cookbook*?

4 A Yes.

5 Q And can you tell the jury what that is?

6 A There are a number of books and manuals that have been  
7 published over the years that provide instruction on homemade  
8 explosives, booby traps, and that type of thing.

9 Q Okay. And does that -- does *The Anarchist Cookbook*  
10 contain recipes or instructions to make things like an ANFO  
11 bomb or homemade poor man's C-4?

12 A I believe it does. It's a book -- and I'm not familiar  
13 with its contents in its entirety, but, yes, those are the  
14 common types of things.

15 Q All right.

16 MR. STONEMAN: May I have a moment to confer, your  
17 Honor?

18 THE COURT: Certainly.

19 (Brief pause.)

20 MR. STONEMAN: No further questions, your Honor.

21 THE COURT: All right. Thank you.

22 Recross?

23 MS. BEHENNA: Yes, your Honor. Just briefly.

24 **RECROSS-EXAMINATION**

25 BY MS. BEHENNA

*RECROSS-EXAMINATION OF BARRY BLACK*

1 Q Agent Black, do you have any evidence that Mr. Varnell  
2 had a distillery on his property where he had the  
3 capability -- first of all, if he had -- well, if he had the  
4 capability to distill anhydrous ammonia?

5 A I don't have any information about that.

6 Q Do you have any evidence that Mr. Varnell had the  
7 capability on how to distill anhydrous ammonia and make  
8 ammonium nitrate?

9 A I don't have any information.

10 Q Did you know, Agent Black, that Mr. Varnell never even  
11 passed chemistry in college? Did you know that?

12 A No.

13 Q Did you know that he tried it twice and had to withdraw  
14 from chemistry --

15 MR. STONEMAN: Objection, your Honor.

16 Q (By Ms. Behenna) -- because he couldn't make --

17 MR. STONEMAN: Objection. Assumes evidence not --

18 THE COURT: Say it again.

19 MR. STONEMAN: She is testifying as to facts that  
20 are not in evidence.

21 THE COURT: And it exceeds the scope of redirect, so  
22 it's sustained.

23 Q (By Ms. Behenna) Do you have any evidence, Agent Black,  
24 that Mr. Varnell was in the process of making explosives from  
25 acetone?

*RECROSS-EXAMINATION OF BARRY BLACK*

1 A Other than the statements I was provided, no.

2 Q On this C-4; right? That's it?

3 A I wasn't told C-4. It was just homemade explosives.

4 Q Do you personally, Agent Black, have any evidence that  
5 Mr. Varnell had the knowledge to put together an ANFO bomb?

6 A I don't know what his knowledge is.

7 MS. BEHENNA: May I have just a moment, your Honor?

8 THE COURT: Certainly.

9 MS. BEHENNA: I believe that's all I have.

10 THE COURT: Government, may this witness be excused  
11 permanently or subject to recall?

12 MR. STONEMAN: Permanently, your Honor.

13 THE COURT: Any objection, defense?

14 MS. BEHENNA: No, your Honor.

15 THE COURT: Sir, thank you for your testimony. You  
16 are permanently excused.

17

18 (End of requested excerpt.)

19

20

21

22

23

24

25

## 1 CERTIFICATE OF OFFICIAL REPORTER

2  
3 I, Christina L. Clark, Federal Official Realtime Court  
4 Reporter, in and for the United States District Court for the  
5 Western District of Oklahoma, do hereby certify that pursuant  
6 to Section 753, Title 28, United States Code that the  
7 foregoing is a true and correct transcript of the  
8 stenographically reported proceedings held in the  
9 above-entitled matter and that the transcript page format is  
10 in conformance with the regulations of the Judicial Conference  
11 of the United States.

12  
13 Dated this 2nd day of July, 2019.

14  
15 s/CHRISTINA L. CLARK  
16 Christina L. Clark, RPR, CRR  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHRISTINA L. CLARK, RPR, CRR  
United States Court Reporter  
200 N.W. Fourth Street, Suite 5419  
Oklahoma City, Oklahoma 73102  
christina\_clark@okwd.uscourts.gov - ph(405)609-5123